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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,065	05/23/2001	Michael Baeuerle	10191/1792	1967
26646	7590	11/24/2003	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			STEVENS, MAURICE E	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/864,065

Applicant(s)

BAEUERLE ET AL.

Examiner

Maurice Stevens

Art Unit

2855

AW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Maloney (5497755).

In regards to claim 1, Maloney discloses a method for performing a functional diagnosis on a ventilation system of a crankcase of an internal combustion engine, a valve in a vent line releasing, in the case of a closed ventilation system, vapors into an intake pipe of the engine in response to a predefined pressure threshold being reached, the vapors being fed together with intake air to a combustion chamber of the engine, the method comprising: determining at least one of an oil pressure and a change in pressure in the crankcase using a pressure sensor and providing a signal indicative thereof (abstract, lines 14-15, column 4, lines 27-32) and closing the valve as a function of the signal of the pressure sensor for a predefined time period, the valve being an electrically controllable pulse valve (column 4, lines 19-23 and fig 2, {80}).

In regards to claim 2, Maloney discloses changing a closing time of the pulse valve as a function of at least one operating parameter, the at least one operating parameter including at least one of an oil level, a temperature, an engine speed, a load, at least one environmental parameter, an operating time, and an engine type (column 4, lines 65-67 and column 5, lines 1-7).

In regards to claim 5, Maloney discloses controlling the pulse valve such that predefined pressure values are maintained in the crankcase (column 4, lines 65-67 and column 5, lines 1-7).

***Claim Rejections - 35 USC § 103***

**The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney in view of O'Daniel (5897597).

In regards to claim 3, Maloney does disclose controlling the pulse valve as a function of the load and the engine speed of the engine; and extending a ventilation phase in response to one of a high engine speed and a small load but O'Daniel discloses

controlling the pulse valve as a function of the load and the engine speed of the engine; and extending a ventilation phase in response to one of a high engine speed and a small load (column 5, lines 53-62 and column 6, lines 5-11), therefore it would have been obvious at the time the invention was made to one having ordinary skill in the art to modify Maloney according to the teachings of O'Daniel for the purpose of providing an accurate diagnosis of the PCV system throughout the operation.

Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney.

In regards to claim 6, Maloney does not implicitly disclose that wherein the predefined pressure values are 50 to 150 mbar. Maloney does disclose in column 5, lines 2-3 that "when the pressure in the crankcase reaches a pre-set value", Maloney leaves the pre-set pressure unstated because it is an arbitrary value that can be set or adjusted to any mbar value depending on the efficiency of the ventilation system and engine type etc. The predefined pressure value being set at 50 to 150mbar is nothing but range set by the applicant and since it was not disclosed that a predefined pressure value of 50 to 150mbar does something significant then any other predefined pressure values, it would have been obvious to one having ordinary skill in the art for in the pertinent art for Maloney whose invention can be ran using

any predefined pressure value in an engine crankcase ventilation system for the purpose of setting a limit where the ventilation system starts to release pressure from the crankcase.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney in view of Oishi et al (6082343).

In regards to claim 7, Maloney does not disclose determining a value for the oil level in the crankcase with a predefined time span, from a characteristic curve of a pressure measured by the pressure sensor but Oishi et al do determine a value for the oil level in the crankcase with a predefined time span, from a characteristic curve of a pressure measured by the pressure sensor (column 7, lines 50-57 and fig 6, {149}), therefore it would have been obvious at the time the invention was made to one having ordinary skill in the art to modify Maloney according to the teachings of Oishi et al for the purpose of providing a warning of a lubrication system malfunction or undesirable condition.

In regards to claim 8, Maloney does not disclose deducing a seal tightness of the ventilation system within a predefined time span, from the change in pressure measured by the pressure sensor but Oishi et al does disclose deducing a seal tightness of the ventilation system within a predefined time span, from the change in pressure measured by the pressure sensor (column 1, lines 45-

47 and column 6, lines 42-44), Therefore it would have been obvious at the time the invention was made to one having ordinary skill in the art to modify Maloney according to the teachings of Oishi et al for the purpose of providing an air and water tight seal.


The prior art that is pertinent to the invention but not used in the rejection: Kashima et al (6450847), Walker, Jr. (6422224) and Mueller et al (5080082).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maurice Stevens whose telephone number is (703) 306-5895. The examiner can normally be reached on M-F, 6:00am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (703) 305-4816. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

MS/2855  
10-31-03



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